

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.7651 OF 2005

Jayant Kishor Khatate .. Applicant
 versus
The Sate of of Maharashtra .. Respondent
Mr.N.N.Gavankar with Arfan Sait for applicant
Mr.K.V.Saste, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 1st December 2005.
P.C.

. The complainant Govind Dhondu Savkare was contesting election of the Ambernath Municipal Council from Ambedkar Nagar, Ward No.38 as a Shivsena BJP Coalition candidate. The deceased Jayendra Hazare was looking after the work of Shivsena party. It is alleged that the deceased was threatened by one Shyam Gaikwad and his associates not to canvass for the complainant as they wanted RPI candidate Sunil Waghmare to win.

2. Since, the deceased was not willing to cooperate with them on the relevant day, the RPI candidates Sunil Waghmare with Prashant Karande, bandu @ Vasant Jadhav, Shabuddin, Prashant Bhosale and one Baban, whose name was subsequently dropped from the array of accused assaulted deceased at his residence. The incident was witnessed by his wife and daughter as well as complainant.

3. The deceased succumbed to the injuries and, therefore, said Savkare lodged an F.I.R. at Ambernath Police Station for offences punishable under section 302, 147, 148, 149 of I.P.C. and under section 37 and 135 of Bombay Police Act. The F.I.R. is registered as C.R.No.I-105 of 2005.

4. Applicant was arrested on 9th April 2005 and since then he is in custody. Statements of Savkare, wife and daughter of deceased have been

recorded. Investigations are complete. As far as present applicant is concerned, none of these witnesses have stated that he was armed with the weapon which have been recovered from other accused. Witnesses do not specify any role in the sense, the present applicant assaulting the deceased. All that is alleged is that the blood stained clothes of present applicant would demonstrate his participation in the crime. Statements of the witnesses have been perused by me. Complainant - contesting candidate Govind Savkare has given three statements. Initially he named one Baban as well. Later on he said that he has not seen said Baban at the scene of offence. His third statement which is recorded on 13th April 2005 when he was undergoing treatment, specifically states that the weapon used were choppers and wooden sticks. Complainant has stated that because of the rival candidate and arrested accused Sunil Waghmare and Prashant Bhosale, he told the name of Baban

initially. Wife of deceased has given two statements and, thereafter, has named the present applicant. The daughter, however, has not named present applicant. Daughter also later on has stated that name of Baban be dropped. Statement of Vinod Sonawane, who intervened in the fight is also perused by me and in his statement as well, applicant has not been named. All that is there on record is the so called blood stained clothes. There is neither any weapon used by the applicant nor any other role is ascribed to him. From the statements that are perused, it appears that apart from main assailants, other persons have not been noticed. In these circumstances, and further, the applicant having no criminal antecedents, he deserves to be enlarged on bail, of course, with stringent conditions. This order is passed despite observations of the learned trial Judge that in the identification parade held in jail, complainant had identified the applicant. However, other witnesses Vinod

Sonawane and wife as well as daughter of deceased have not so identified the applicant. Further, the complainant has in his supplemental statement also has not mentioned presence of applicant.

5. Accordingly following order:-

i) The applicant shall be enlarged on bail in connection with C.R.No.I-105 of 2005 registered with Ambernath Police station in the sum of Rs.15,000/- with one or two sureties in the like amount.

ii) Since the investigations are now transferred to State C.I.D., the applicant is directed report to the State C.I.D. office at Konkan Bhavan every Monday between 3.00 p.m. and 5.00 p.m. till the charge sheet is filed and until further orders.

iii) Applicant shall not directly, or indirectly make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any findings or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)